

FILED  
UNITED STATES DISTRICT COURT CLERKS OFFICE  
DISTRICT OF MASSACHUSETTS

2004 JAN 29 P 12: 16

JOSE RAMIREZ,

Petitioner,

v.

STEVEN J. O'BRIEN,

Respondent.

U.S. DISTRICT COURT  
DISTRICT OF MASS.

Civil Action No. 03-40281-NMG

**ASSENTED-TO MOTION TO EXTEND TIME  
TO RESPOND TO PETITION FOR A WRIT OF HABEAS CORPUS**

The respondent, by and through counsel, the Attorney General of the Commonwealth of Massachusetts, hereby requests that the Court extend the time within which he must respond to the Petition for a Writ of Habeas Corpus that is the subject of the captioned action. By this motion, the respondent requests up to and including March 13, 2004, to answer or otherwise respond to the petition. The respondent's response was due on January 26, 2004; through inadvertence, however, the undersigned counsel thought the due date was January 29, 2004, and therefore did not seek an extension earlier. The petitioner's counsel has assented to the requested extension. As grounds for this motion, the respondent states as follows:

1. The records relating to the petitioner's underlying state-court conviction are maintained by the Office of the District Attorney for Hampden County (the "Hampden DA"), not by the Office of the Attorney General.
2. Upon receipt of this Court's Order, the undersigned assistant attorney general promptly caused a request to be made to the Hampden DA for assembly and production of relevant portions of the underlying state-court record, including, but not limited to, copies of the trial transcripts and post-conviction proceedings. The undersigned counsel has not yet received

the records.

3. Absent receipt and review of the relevant records, the respondent cannot meaningfully evaluate threshold defenses under the Antiterrorism and Effective Death Penalty Act (“AEDPA”), such as whether the petitioner has properly exhausted available state-court remedies as required by 28 U.S.C. § 2254(b)(1) and whether this petition is timely filed in accordance with 28 U.S.C. § 2244(d). The time extension sought herein will enable the respondent to compile and evaluate all of the relevant records, and, thereby, be in a position to meaningfully respond to the petition.

4. Moreover, the undersigned counsel presently is handling a large caseload of post-conviction matters for the Commonwealth of Massachusetts, including numerous federal habeas corpus petitions. In the next thirty days, for example, the undersigned counsel has an appellee brief due in the First Circuit; an oral argument in the First Circuit; three memoranda of law due in two separate federal habeas matters pending in the United States District Court for the District of Massachusetts; an answer due in another federal habeas corpus action; and a motion to dismiss due in Massachusetts Superior Court.

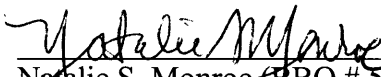
5. Pursuant to L.R. 7.1(A)(2), the undersigned counsel conferred with the petitioner’s counsel, Alan D. Campbell., by telephone on January 28, 2004. The petitioner’s counsel agreed to the extension of time.

**WHEREFORE**, the present motion should be allowed and an order should enter allowing the respondent up to and including March 13, 2004 to answer or otherwise respond to the petition.

Respectfully submitted,

THOMAS F. REILLY,  
ATTORNEY GENERAL

Dated: January 28, 2004

  
Natalie S. Monroe (BBO # 562383)  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200, x2833

**Rule 7.1 Certification**

I hereby certify that I conferred with the plaintiff's counsel, Alan D. Campbell, Esq., by telephone on January 28, 2004. Mr. Campbell agreed to the relief requested in this motion.

  
Natalie S. Monroe

**Certificate of Service**

I hereby certify that on January 28, 2004, I caused a copy of the above document to be served by first-class mail, postage prepaid, upon counsel for the petitioner, Alan D. Campbell, Esq., P.O. Box 131, Brookline, Massachusetts 02446.

  
Natalie S. Monroe